

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

United States of America

v.

Case No. 2:95-cr-20

Edward B. Jones

ORDER

Defendant has filed a motion for reconsideration of this court's order denying his motion for reduction of sentence pursuant to 18 U.S.C. §3582(c)(2). As this court noted in its previous order, the defendant's presentence report indicates that no enhancement was applied to the robbery counts due to the defendant's use of a firearm or an explosive device. Presentence Report, ¶¶ 34, 42-44, 53. Because no enhancement for the use of a weapon or explosive device was applied in calculating the guideline range for the bank robbery counts, defendant's sentence already meets the requirements of Amendment 599, and he is not entitled to any reduction in sentence under that amendment. The enhancement for physical restraint applied to the robbery in Count 5, as described in ¶54, does not rest on the defendant's actual use of an explosive device, and, in fact, no hand grenade was found in the bank. The enhancement for restraint addresses safety concerns which are distinct from the use of a weapon. The fact that the tellers in this case were deemed to be restrained because defendant ordered the tellers into a restroom and falsely told them that he had placed a grenade outside the door which would explode if the door was opened is independent of any possession of a firearm by the defendant during the robbery as charged in Count 6. The two-level enhancement for restraint of the tellers did not result in

impermissible double counting, and defendant's motion for reconsideration is denied.

Date: May 16, 2006

s/James L. Graham  
James L. Graham  
United States District Judge